

Preliminary List of Issues for *Acquavella* Final Decree.

This is a preliminary list of issues for consideration in response to the Court's Notice dated October 23, 2006, and to the Department of Ecology's Memorandum on Issues Regarding Final Decree (Sept. 12, 2006).

1. The Court should continue to follow the procedure for preparation of the Final Decree outlined in the *Acquavella* Pretrial Order No. 8 Re: Procedures for Claims Evaluation (Revised) (Mar. 3, 1989) at pp. 25-26.
2. State mandated fees for water rights adjudication certificates do not apply to Treaty or federally reserved rights.
3. The Court should follow the law of the case concerning the Department of Ecology's, Bureau of Reclamation's and other parties' authority to regulate or administer water rights adjudicated in this case. In addition to addressing the authority of the Department of Ecology and the Bureau of Reclamation to regulate certain water rights, the Final Decree should also address the separate regulatory and administrative authority of the Yakama Nation and/or the Bureau of Indian Affairs over other water rights in the Yakima Basin, as outlined in prior rulings of the Court.
4. The effective date of an Ahtanum Creek Conditional Final Order, for purposes of the issues raised in Bugni, will be the year 2001 rather than the date the CFO may be issued. See Ahtanum Memorandum Opinion, (Oct. 8, 2003) at pp. 4-5.
5. The Yakama Nation does not have comments at this time on the Department of Ecology's discussion of the regulation of priorities and other issues raised in its Memorandum but agrees that these issues should be the subject of further discussion. The Nation reserves the right to comment further on these issues in the future.